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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,506	06/13/2007	Madalina Baltatu	09952.0062	4571
22852	7590	09/30/2010	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			DESIRE, GREGORY M	
		ART UNIT	PAPER NUMBER	
		2624		
		MAIL DATE		DELIVERY MODE
		09/30/2010		PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/584,506	BALTATU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gregory M. Desire	2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 23 June 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-46 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 45 is/are allowed.  
 6) Claim(s) 1-25, 29, 35-39, 41-44 and 46 is/are rejected.  
 7) Claim(s) 26-28, 30-34 and 40 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 June 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/23/06 and 6/13/07</u>	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. based upon consideration of all of the relevant factors with respect to the claim as a whole, claims 24 held to claim an abstract idea, and is/are therefore rejected as ineligible subject matter under 35 U.S.C. 101. The rationale for this finding is explained below: The claim does not recite a machine or qualifying transformation.

2. Claim 46 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 46 defines a program embodying functional descriptive material (i.e., a computer program or computer executable code). However, the claim does not define a “computer-readable medium or computer-readable memory” and is thus non-statutory for that reason (i.e., “When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized” – Guidelines Annex IV). The scope of the presently claimed invention encompasses products that are not necessarily computer readable, and thus NOT able to impart any functionality of the recited program. The examiner suggests amending the

claim(s) to embody the program on “computer-readable medium” or equivalent; assuming the specification does NOT define the computer readable medium as a “signal”, “carrier wave”, or “transmission medium” which are deemed non-statutory (refer to “note” below). Any amendment to the claim should be commensurate with its corresponding disclosure.

Note:

“A transitory, propagating signal … is not a “process, machine, manufacture, or composition of matter.” Those four categories define the explicit scope and reach of subject matter patentable under 35 U.S.C. § 101; thus, such a signal cannot be patentable subject matter.” (*In re Nullten*, 84 USPQ2d 1495 (Fed. Cir. 2002)). Should the full scope of the claim as properly read in light of the disclosure encompass non-statutory subject matter such as a “signal”, the claim as a whole would be non-statutory. Should the applicant’s specification define or exemplify the computer readable medium or memory (or whatever language applicant chooses to recite a computer readable medium equivalent) as statutory tangible

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 24-25, 29, 35-39, 41-44 and 46 are rejected under 35 U.S.C. 102 (b) as being anticipated by McAfee, II ET al (7,474,769).

Regarding claims 24, 38, 41, 44 and 46 McAfee discloses,

Generating a reference biometric template (fig. 1, block 12) from a first biometric image (fig. 1 block 11) of a user to be authenticated (block 11 and col. 4 lines 56-59);

Splitting said reference biometric template into a first and a second reference biometric template portion (col. 7 lines 5-10 and col. 8 lines 16-20);

Enciphering (fig. 1 block 13) said first and second reference biometric template portion (col. 4 lines 55-56);

Storing each one of said reference biometric template portions into a different memory (fig. 1 block 14).

Regarding claim 25 McAfee discloses,

Transmitting said first reference biometric template portion from a first system to a device, said first system operating in said enrolment step (note fig. 3 block 31);

Storing said first reference biometric template portion into a memory of said device, said device operating in said verification step (note fig. 3 block 32);

Transmitting said second reference biometric template portion from said first system to a second system (fig. 3 block 33), said second system operating in said verification step (comparing authenticates); and storing said second reference biometric template portion into a memory of said second system (note fig.3 block 32k).

Regarding claim 29 McAfee discloses,

Wherein said step of splitting said reference biometric template into a first and a second reference biometric template portion comprises the step of: destroying said biometric template performed by said first system (note col. 7 lines 5-12)

Regarding claim 35 McAfee discloses,

Wherein said identification biometric techniques comprise at least one biometric identification technique of the type selected from: face recognition, fingerprints, hand prints, voice templates, retinal images, and calligraphic samples (note col. 4 lines 19-26).

Regarding claim 36 McAfee discloses,

Wherein said first and second systems are respectively a data enrolment system and a data verification system and said device is a data carrier (note fig. 3 block 31).

Regarding claims 37 and 39 McAfee discloses,

Splitting said reference biometric template into a plurality of reference biometric template portions, at least some of said reference biometric template portions being used to recompose said reference biometric template (col. 8 lines 16-19).

Regarding claim 42 McAfee discloses,

A substrate whose sizes are substantially rectangular (note col. 6 lines 55-60).

Regarding claim 43 McAfee discloses,

Wherein said data carrier is an access card or a credit card or a debit card or an identification card or a smart card or a SIM card (note col. 6 lines 35-45).

***Allowable Subject Matter***

5. Claims 45 are allowed.

6. The following is an examiner's statement of reasons for allowance: for independent claim 45. The prior art fails to disclose the features.

A second memory adapted to store at least a third reference biometric template portion associated with a user to be authenticated, said third reference biometric template portion being signed and enciphered, wherein said first, second and at least third reference biometric template portions are such that the reference biometric template can be recomposed from a subset of at least two of said reference biometric template portions;

An image acquiring and processing device for generating a live template; Said electronic device being adapted to encipher and sign said live template, transmitting said second reference biometric template portion and said live template to said portable data carrier and authenticating said user depending on the result of a comparison performed by said data carrier between said live template and a reference

biometric template of said user to be authenticated, said reference biometric template being rebuilt by using said first and second reference biometric template portion. These features in combination with other features are not taught in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

7. Claims 26-28 and 30-34 and 40 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: The prior art fails to disclose generating a live template from a second biometric image of said user to be authenticated; enciphering said live template; and transmitting said live template and said second reference biometric template portion to said device. These features in combination with other features are not taught in the prior art. Claims 27-28, 31 and 33-34 depend on claim 26. Therefore are also objected.

Regarding claim 30, prior art fails to disclose the storing a first and a second key and a related digital certificate into a memory of said first system, said first and second keys being respectively a public key and a private key associated with said first system;

storing a first and a second key and a related digital certificate into said memory of said device, said first and second keys being respectively a public key and a private key associated with said user to be authenticated; signing said first and second reference biometric template portion with said private key of said first system; and enciphering said, first and second reference biometric template portion with said public key of said user to be authenticated. These features in combination with other features are not taught in the prior art. Claim 32 depend on claim 30. Therefore are also objected.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory M. Desire whose telephone number is (571) 272-7449. The examiner can normally be reached on M-F (6:30-3:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

G.D.

September 27, 2010

/Gregory M. Desire/  
Primary Examiner, Art Unit 2624